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March 31, 2023

**VIA ECF**

The Honorable Victor Marrero  
United States District Court Judge  
United States District Court  
500 Pearl Street, Suite 1610  
New York, New York 10007

Re: Nwosuocha v. Glover, et al.; No. 21-cv-04047 (VM)

Dear Judge Marrero:

We represent certain of the Moving Defendants in the connection with the above-referenced action.<sup>1</sup> On behalf of all Defendants, we respectfully request an extension of time to file a motion for costs, as permitted under Section 505 of the U.S. Copyright Act. Plaintiff's attorneys consent to this requested extension.

On March 24, 2023, the Court issued a Decision and Order granting Defendants' Motion to Dismiss "with prejudice to leave to amend." [Dkt. No. 100.] The same day, the Clerk of Court entered judgment and closed the case. [Dkt. No. 101.] Because Defendants are the "prevailing party" under Section 505 of the Copyright Act, Defendants may move for "a reasonable attorney's fee . . . as part of the costs." 17 U.S.C. § 505.

The deadline for Defendants' motion is currently April 7, 2023, which is "14 days after the entry of judgment." *See* Fed. R. Civ. P. 54(d)(2)(B)(i). However, Plaintiff may appeal the Court's order.<sup>2</sup> His deadline to file such notice is April 24, 2024. *See* Fed. R. App. P. 4(a)(1)(A).

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<sup>1</sup> Defendants Donald McKinley Glover, II, Jefferey Lamar Williams, Kobalt Music Publishing America, Inc. d/b/a Songs of Kobalt Music Publishing, Sony Music Entertainment, Young Stoner Life Publishing, LLC, 300 Entertainment LLC (f/k/a Theory Entertainment LLC d/b/a 300 Entertainment), Atlantic Recording Corporation, and Warner-Tamerlane Publishing Corp.

<sup>2</sup> *See, e.g.,* E. Minsker, *Lawsuit Over the Childish Gambino's "This Is America" Dismissed*, PITCHFORK (Mar. 26, 2023), <https://pitchfork.com/news/lawsuit-over-childish-gambinos-this-is-america-dismissed/> ("Mr. Nwosuocha is understandably disappointed, and is considering an

The Honorable Victor Marrero  
March 31, 2023  
Page 2

If Plaintiff appeals, then it would create additional costs that are recoverable under Section 505. Accordingly, Defendants respectfully request that the Court extend the current deadline to file a motion for costs to the longer of: (a) 30 days after the expiration of Plaintiff's right to file a Notice of Appeal; or (b) 30 days after the Court of Appeals issues a final decision and the time to pursue any further appeals expires, whether in the Second Circuit or the U.S. Supreme Court.

Defendants' requested extension will avoid the filing of multiple fee motions. Further, it will provide the parties ample time to resolve any remaining issues in the action.

This letter is Defendants' first request concerning an extension of time to file a motion for costs.

Respectfully submitted,

*/s/Jonathan D. Davis*

Jonathan D. Davis

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cc: All Counsel (VIA ECF)

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appeal of the decision,' Kidd Wes' attorneys, Imran H. Ansari and La'Shawn N. Thomas, wrote in a statement to Pitchfork.”).